IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN
AT JAIPUR BENCH, JAIPUR

O R D E R

S.B. CIVIL WRIT PETITION NO. 3396/2003

RAMKISHOR
Vs.
THE PRESCRIBED AUTHORITY, ASSITANT COLLECTOR (ACM), MAHUWA & ANR.

DATE: 19.11.2007.

HON'BLE MR. JUSTICE K.S. RATHORE

Mr. Anil Agarwal for
Mr. V.S. Chouhan for the petitioner.
Mr. Prashant Sharma for
Mr. Alok Sharma for the respondent Bank.

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The petitioner's father Shri Gangadhar Meena took an agriculture loan to the tune of Rs. 94,700/- from the respondent Bank for purchase of tractor. It is alleged that the petitioner has deposited substantial amount of loan, but could not repay loan amount which has been sanctioned by the respondent bank, therefore, the respondent Bank moved an application dated 09.06.93 for recovery of loan amount and during pendency of the recovery proceedings, the petitioner's father Shri Gangadhar Meena died and notices were issued to his legal heirs and decree was passed in favour of the respondent Bank and the Tehsildar, Mahuwa was directed to execute the decree. The Tehsildar, Mahuwa for recovery of the due amount, has issued proclamation

notice for auction of the land of the petitioner, against which the instant writ petition has been preferred by the petitioner with the request to remand the matter back to the respondent No.1 to determine the liability of the borrower and thereafter proceed further afresh in the matter.

The fact with regard to taking loan is not disputed and it is also not disputed that payment of full amount against the loan taken has not been made, therefore, proceedings have been initiated.

So far as recovery is concerned, learned counsel for the petitioner placed reliance on the judgment rendered by the Hon'ble Supreme Court in the case of **Corporation Bank Vs. D.S. Gowda And Another, (1994)5 SCC 213,** wherein the Hon'ble Supreme Court has held to charge the interest at annual rests so far as agriculture loan is concerned. It is not disputed that the loan advanced has been termed as agriculture loan for purchase of tractor.

Hon'ble the Supreme Court has considered that the farmer can only be able to repay the loan at the end of the year as has been observed by the Hon'ble Supreme Court that the question of recovery of interest with quarterly or six monthly rest from farmers is not feasible as the farmers do not have any regular source of income except sale proceeds of their crops which

income they get once a year.

Learned counsel appearing for the respondents has disputed this fact that in the area in question, the petitioner is having three crops and the farmer is getting sale proceeds thrice in a year, therefore, they are charging the interest on six month rests, which cannot said to be contrary to the ratio decided by the Hon'ble Supreme Court.

Be that as it may. The respondent Bank is directed to calculate the interest part at annual rests in view of the ratio decided by the Hon'ble Supreme Court in the aforementioned case of **Corporation Bank (supra)** after adjusting the amount which has already been paid shall issue fresh demand and as per the fresh demand, in case the petitioner makes the payment of full amount, auction proceedings of his land may not take place, failing which the respondents are at liberty to recover the loan amount in accordance with the provisions of law.

With these observations, the writ petition stands disposed of.

The interim order dated 10.10.2003 granted by this Court is hereby rejected. The stay application also stands dismissed.

(K.S. RATHORE),J.

/KKC/